THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2017; factory and premises; comparable assessments; appeal allowed in part.

RE: Monocon International Refractories Ltd, Denaby Main Industrial Estate, Pitman Road, Doncaster DN12 4LJ

APPEAL NUMBER: CHG100685248

BETWEEN:	Monocon International Refractories Ltd	Appellant
	and	
	Mrs J Moore (Valuation Officer)	Respondent

PANEL: Ms B Knight (Presiding Senior Member)
Ms C Jones (Senior Member)

CLERK: Mrs H Beresford

REMOTE HEARING ON: 24 April 2023

APPEARANCES: Miss E Saunders of Altus Group (Appellant's representative)
Mr S Grainger (for the Valuation Officer)

Summary of decision

1. The appeal was allowed in part, the assessment was confirmed at rateable value (RV) £78,750 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: Monocon International Refractories Ltd, Denaby Main Industrial Estate, Pitman Road, Doncaster DN12 4LJ (the 'appeal property'), which was entered in the 2017 rating list as 'factory and premises' at rateable value (RV) £81,500, effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Monocon International Refractories Ltdmade an appeal to the Valuation Tribunal for England (VTE). The appeal was made because the valuation officer decided not to alter the 2017 rating list following the appellant's check and challenge. The appellant had sought a reduction to RV £67,500 with effect from 1 April 2017.

4. The appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable, as the valuation officer had not made any alteration to the rating list in his challenge decision notice.

5. The appeal hereditament comprises a factory and premises with an overall area of 4,870m^2. It consists of two survey units: survey unit 1 was built in1975 and 3,275.70m^2 in size, comprising of production areas, warehousing, an office and ancillary accommodation; survey unit 2 was built in 1993 and is 1,565m^2 in size, comprising of warehousing and production areas. It is situated in the village of Denaby Main to the west of the town of Doncaster in South Yorkshire.

6. The appellant's representative, when appearing as expert witness, stated that she was on a conditional fee arrangement. However, she also stated that she understood and accepted that her first duty was to the VTE in giving her evidence, whether or not the evidence supported her client's case.

7. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is allowable due to the Tribunal's rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

8. It was therefore appropriate for the panel to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

9. This decision document is not and does not purport to be a verbatim record of proceedings.

Issue

10. Whether an end allowance of 15% for poor layout and sloping site, and 5% for mixed age units should be adopted for the appeal property as opposed to the 1.5% for poor layout adopted by the Valuation Officer.

Evidence and submissions

11. The evidence before the panel comprised all of the information and documents which had been disclosed and exchanged as part of the challenge process.

Decision and reasons

12. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD),1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

13. The term ‘rateable value’ is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

“The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic rating) shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions –

a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

c) the third assumption is that the tenant undertakes to pay all usual tenant’s rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above”

14. The Lands Tribunal judgment in *Lotus and Delta v Culverwell* (VO) [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

15. Miss Saunders submitted that the appeal property was held freehold so no rental evidence was available. No other rental evidence was submitted by either party.

16. Miss Saunders had provided evidence of end allowances adopted for 17 properties which she contended supported her argument that the end allowance for layout and sloping site should be increased to 15% for the appeal property. She also argued that a further end allowance of 5% should be adopted for the mixed age of the units.

17. Mr Grainger argued that with respect to the differing ages of the two survey units this had already been allowed for in the price per metre square adopted for the appeal property which was £21.50/m^2 for unit 1, which was built in 1975 and £23.16m^2 for unit 2 which was more modern having been built in 1993. The panel found no further allowance should be adopted as the disadvantage had been accounted for.

18. Regarding the slope and poor layout, the panel noted that the property was situated on a very gradual slope, but it did not consider this disability to be significant enough to warrant an end allowance. It did, however, accept that the comparable properties referred to by Miss Saunders had been given end allowances of between 5% and 10% for poor layout as compared to 1.5% adopted for the subject property. The panel found that given this evidence and the lack of any alternative evidence from the Valuation Officer the end allowance adopted for the poor layout of the appeal property should be increased from 1.5% to 5% with effect from 1 April 2017.

19. Mr Grainger had argued that a 1.5% end allowance for the fragmented layout had been agreed for the 2010 rating list, however, the panel noted that the 2010 rating list was a different entity to the 2017 rating list and was therefore of little significance.

20. Having regard to the evidence and argument presented the panel found that:

    Assessment without adjustments: £80,411

    Less allowance: 5% poor layout = £76,390

    Plus plant and machinery £2,581 = £78,971

    Say £78,750

21. The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Order

22. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list to show a revised assessment of £78,750 RV for the appeal property, with effect from 1 April 2017.

23. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Date: 18 May 2023

Appeal number: CHG100685248

Any party who is aggrieved by the Tribunal’s decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.